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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #
CITY CLERK, SALEM, MASS.

September 2, 2015 Decision City of Salem Board of Appeals

Petition of NOTCH TAP ROOM, LLC seeking a Special Permit per Sec. 3.0 *Table of Principal and Accessory Use Regulations* of the Salem Zoning Ordinance, in order to allow a brewery, distillery or winery with a tasting room and exterior beer garden located at the property of 283 Rear Derby Street (Map 34 Lot 439) (B-5).

A public hearing on the above Petition was opened on August 19, 2015 pursuant to M.G.L Ch. 40A, § 11. The hearing was closed on that date with the following Salem Board of Appeals members present: Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins, Paul Viccica (alternate).

The Petitioner seeks a Special Permit from the provisions of Section 3.0 *Table of Principal and Accessory Use Regulations* of the Salem Zoning Ordinance to allow a brewery, distillery, winery with a tasting room and beer garden.

Statements of fact:

1. In the petition date-stamped July 28, 2015, the Petitioner requested a Special Permit per Section 3.0 *Table of Principal and Accessory Use Regulations* of the Salem Zoning Ordinance, in order to allow winery, brewery, distillery with a tasting room and beer garden.
2. Attorney Atkins presented the petition.
3. Petitioner proposes a brewery, distillery or winery with a tasting room and beer garden.
4. The City of Salem Zoning Ordinance defines a *brewery, distillery, or winery with a tasting room* as a business located in a building where the primary use is for the production and distribution of malt, spirituous, or vinous beverages with a tasting room as defined in Section 10.0. Any such facility that only provides samples at no charge and limited in size as set forth in M.G. L c. 138 shall have a Commonwealth of Massachusetts issued Farmer Series License and any such facility that sells alcoholic beverages to be consumed on the premises shall have a Commonwealth of Massachusetts issued Farmer Series Pouring License. The facility may host marketing events, special events, and/or factory tours. The facility may only sell beverages produced by, and commercial goods branded by, the brewery, distillery, or winery. The facility may sell permitted beverages by the bottle to consumers for consumption off the brewery premises.
5. A *tasting room* is defined as a room attached to either a brewery, distillery or winery that allows patrons to sample or consume wine, beer, and other alcoholic beverages that are produced on-site in accordance with M.G.L. c. 138. A tasting room may not be greater than thirty-three (33) percent of the main building's gross square footage.
6. The petitioner proposes to have a 1,693 square foot tasting room and 3,149 square foot brewery.
7. The location of the proposed brewery is in a B-5 Central Development Business District and is not required to provide off-street parking spaces for nonresidential uses in this zoning district. There is a public parking garage and on-street parking available in close proximity.

8. The proposed hours of operation are Wednesday through Sunday 12pm to 11pm and closed Monday and Tuesday except for scheduled special events that are arranged in advance.
9. Notch proposes to employ 9-10 full time employees and 12 part-time employees.
10. All serving on the premises must follow ABCC State regulations and local licensing board regulations.
11. The requested relief, if granted, would allow a brewery, distillery or winery with a tasting room and beer garden.
12. At the public hearing, no (0) members of the public spoke in favor or in opposition to the petition.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, including the application narrative and plans, makes the following **findings**:

Findings


The proposal at the public hearing is consistent with the definition of a brewery, distillery, winery with a tasting room Section 10.0 of the City of Salem Zoning Ordinance.

1. Social, economic and community needs served by this proposal is that the facility will add to a commercial mix of businesses in the community and be attractive to consumers and other restaurants in the community that Notch Brewing Company delivers product to.
2. Traffic flow and safety, including parking and loading is adequate as there are no requirements for nonresidential uses to provide off-street parking spaces in a B5 Central Business District. There is public parking along Derby Street and in the public parking garage one building over from the proposed location of Notch Brewing Company. There is also access to the site from Congress Street and Derby Street to facilitate traffic flow.
3. There are no changes to the proposed utilities and other public services.
4. There will be no significant impacts to the natural environment including drainage.
5. The proposal conforms to the neighborhood character as the company proposes to make considerable improvements to the interior and exterior of the building and the existing neighborhood is commercial in nature and will not disturb any residences with this proposed use.
6. The potential fiscal impact, including impact on the City tax base and employment is positive as the petitioner proposes to have 9-10 full time employees and 12 part-time employees.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins, Paul Viccica (alternate) and none (0) opposed, to approve the requested Special Permit to allow a brewery, distillery and winery tasting room to an adjacent space to an existing brewery, distillery or winery subject to the following eight (8) standard **terms, conditions and safeguards**:

Standard:

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finished of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to the Planning Board.


Rebecca Curran, Chair
Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK

Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.